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OFFICE OF THE AUDITOR GENERAL

California Legislature



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November 17, 1977

Letter Report 296.1

The Honorable Speaker of the Assembly
The Honorable President pro Tempore
of the Senate
The Honorable Members of the Senate and the
Assembly of the Legislature of California

Members of the Legislature:

Your Joint Legislative Audit Committee respectfully forwards
the Auditor General's letter report on the State Bar of
California.

The auditors are Kurt R. Sjoberg, Audit Manager, and
David B. Tacy.

Mike Cullen
Cordially
MIKE CULLEN
Chairman

cc: Senate and Assembly Judiciary Committee Members



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November 14, 1977

Letter Report 296.1

Honorable Mike Cullen
Chairman, and Members of the
Joint Legislative Audit Committee
Room 5144, State Capitol
Sacramento, California 95814

Dear Mr. Chairman and Members:

In response to a resolution of the Joint Legislative Audit Committee, we have reviewed the management of the State Bar of California. This review was conducted under authority vested in the Auditor General by Section 10527 of the Government Code.

Section 6140.3 of the Business and Professions Code was enacted in 1976 to increase the State Bar membership fees charged to California attorneys in 1977. That legislation included the following provision:

The Joint Legislative Audit Committee is requested to request the Auditor General to review and study the functioning, programs and fees of the State Bar.

Our current review of the State Bar was the third requested by the Joint Legislative Audit Committee since 1974. In four previous reports,* the Auditor General recommended specific improvements in State Bar management. In 1974 and 1976, the Auditor General recommended that the Legislature disapprove proposals to authorize increased State Bar membership fees because the Bar had not developed workload analyses and specific justification for proposed budget increases.

* Report 223.1, "State Bar of California," June 1974; Report 223.2, "State Bar of California," August 1974; Report 284.1, "Review of the State Bar of California," August 1976; Report 284.2, "Opportunities to Improve Management of the State Bar of California," January 1977.

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This letter report covers that portion of our current review concerning the Bar's implementation of previous recommendations by the Auditor General. A separate report will reflect the remainder of the current review's scope, which focused on the membership fee level necessary in 1978 and the effectiveness of two major Bar programs: licensing attorneys and disciplining attorney misconduct.

Progress in Improving Selected Operations

The State Bar has made substantial progress in implementing some of the recommendations in previous reports of the Auditor General. Workload data are being gathered which will permit more accurate projections of staff requirements than had been previously attempted, and more sophisticated cost projections have been developed. The Bar has substituted administrative assistants for attorneys in some staff positions which do not require an attorney's expertise. The Bar has suspended the historical \$10 per member Client Security Fund fee in 1977, and resolved not to assess this fee in 1978. Bar management has also taken steps to more efficiently use its buildings, which may permit excess space to be rented until the Bar needs it.

However, the State Bar disagreed with the Auditor General's recommendations to (1) improve the business management of the State Bar Journal, (2) more equitably charge the costs of administering the Client Security Fund and (3) use cash management techniques to postpone the need for higher membership fees.

The State Bar's actions on each of these issues are discussed in detail as follows:

1. MORE SOPHISTICATED COST PROJECTIONS
(Reports 223.1, June 1974; 284.1, August 1976)

Prior Auditor General's Report Recommendation

Prior to requesting legislative approval for membership fee increases, the State Bar should prepare specific written analyses of its priorities, plans and cost estimates for each program's development in the projection period. Where appropriate, such analyses should include quantified projections of workload and the resources needed to service it.

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State Bar Action

Since January 1977, the Bar has gathered workload data by categories of work task for slightly over one-half of Bar staff. Projections for 1978 based on such data have only been made for two departments which account for 36 percent of the Bar's 1977 budgeted staff.

The Bar's director of financial affairs has also improved the sophistication of 1978 cost estimates over those provided us for 1977. The expense projection for 1978 is itemized by Bar program and natural expense classification and includes rationales for proposed increases. However, this projection has not benefited from formal program or fiscal planning review by the Board of Governors.

2. FORMAL FISCAL PLANNING
(Report 284.1, August 1976)

Prior Auditor General's Report Recommendation

The State Bar should develop a formal procedure for fiscal planning.

State Bar Action

The Bar has not developed a procedure for formally setting priorities and planning the evolution of Bar programs, which would permit improved fiscal planning beyond one year. However, the Bar has improved procedures for planning its annual budget, including multi-year planning of some programs. In our opinion, the Bar will be unable to plan fiscal affairs beyond one year until the Board of Governors systematically develops priorities and plans for the evolution of Bar programs.

3. MORE EFFICIENT SPACE USE
(Reports 223.2, August 1974; 284.2, January 1977)

Prior Auditor General's Report Recommendation

To maximize efficiency, the State Bar should more carefully plan its use of facilities. In 1976, we recommended that the Bar seek rental tenancy for excess space in Bar buildings until such space is needed for Bar purposes.

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State Bar Action

The State Bar is moving toward compliance with this recommendation. Bar management is studying alternatives for better use of space in both the Bar's San Francisco and Los Angeles buildings. Some changes in staff assignments have also been made which may affect the efficiency of space utilization. The ultimate efficiency of these changes is undetermined.

4. EFFICIENT USE OF STAFF ATTORNEYS
(Reports 223.2, August 1974; 284.2, January 1977)

Prior Auditor General's Report Recommendation

Through attrition the State Bar should substitute administrative assistants for staff attorneys whose positions do not require an attorney's expertise.

State Bar Action

The State Bar has substantially implemented this recommendation. The Bar has developed a procedure for scrutinizing each staff attorney vacancy to determine whether less expensive or more appropriately qualified staff might replace attorneys. Of six staff attorney vacancies which arose in administrative positions since our last review, four are being replaced with non-attorneys.

5. FULL USE OF CASH RESOURCES
(Report 284.1, August 1976)

Prior Auditor General's Report Recommendation

The State Bar should incorporate cash flow analysis into its projection of revenue needs before requesting legislative approval for membership fee increases.

State Bar Action

The State Bar disagreed with our proposal to finance expenses from virtually assured cash income, so no action has been taken on this recommendation.

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6. BETTER BUSINESS MANAGEMENT OF STATE BAR JOURNAL
(Report 284.2, January 1977)

Prior Auditor General's Report Recommendation

The State Bar should improve the business management of the Journal by (1) centralizing the management of all Bar publications, (2) contracting for an independent circulation audit of Journal readership and adjusting magazine content and advertising rates accordingly, and (3) using marketing techniques to raise the volume of Journal advertising to at least 50 percent of the magazine's page volume.

State Bar Action

The State Bar is considering centralized management of all Bar publications, but no further action has been taken. In other respects, the Bar disagrees with our recommendations. The Bar is satisfied that the volume of Journal advertising is comparable to that in other state bars' journals. The Bar also says its Journal Committee is capable of determining the Journal's value to its readers without necessitating an independent readership survey. The Bar believes that increasing Journal advertising revenue would be expensive.

7. UNNECESSARY CLIENT SECURITY FUND FEES
(Report 284.2, January 1977)

Prior Auditor General's Report Recommendations

The State Bar should suspend the Client Security Fund fee in 1977, and should use quantified analysis of Fund exposure and historical payment rates to project the need for charging Client Security Fund fees.

State Bar Action

The State Bar has substantially implemented this recommendation. After completion of our 1976 review, the State Bar suspended the Client Security Fund fee in 1977. Bar officials told us that if the Fund's 1977 exposure and payment rates are similar to those of 1976, it should be unnecessary to charge a Client Security Fund fee (typically \$10 per active Bar member) in 1978.

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8. EQUITY IN CLIENT SECURITY FUND CHARGES
(Report 284.2, January 1977)

Prior Auditor General's Report Recommendations

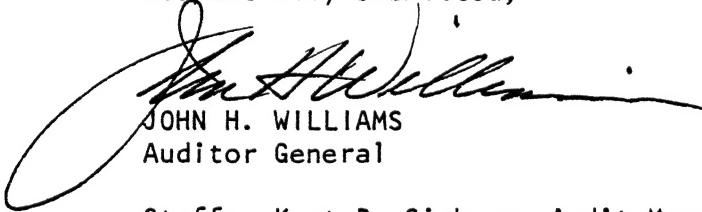
The State Bar should charge the Client Security Fund for the cost of administering the Fund, rather than charge such costs to the Bar's General Fund. The Bar should develop methods for determining the costs to be charged to the Client Security Fund.

State Bar Action

The State Bar's legal counsel disagreed with the Legislative Counsel's opinion that such charges to the Client Security Fund would be legal. Therefore, the Bar has taken no action on this recommendation.

On behalf of my staff, I have appreciated the cordial cooperation provided by the State Bar during our reviews.

Respectfully submitted,



JOHN H. WILLIAMS
Auditor General

Staff: Kurt R. Sjoberg, Audit Manager
David B. Tacy

Attachment: Written Response to the Auditor General's Letter Report
The State Bar of California

THE STATE BAR OF CALIFORNIA

GARVIN F. SHALLENBERGER, President
EDWIN J. WILSON, Vice-President and Treasurer
FULTON HAIGHT, Vice-President
EDWARD L. LASCHER, Vice-President
KURT W. MELCHIOR, Vice-President

JOHN S. MALONE, Secretary
SAN FRANCISCO
LILY BARRY, Assistant Secretary
LOS ANGELES
MARY G. WAILES, Assistant Secretary
SAN FRANCISCO
KARL E. ZELLMANN, Assistant Secretary
SAN FRANCISCO

HERBERT M. ROSENTHAL, General Counsel
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601 McALLISTER STREET
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November 10, 1977

Mr. John H. Williams
Auditor General
Suite 750, 925 L Street
Sacramento, California 95814

Dear Mr. Williams:

We are in receipt of your Letter Report 296.1 dated November 4, 1977.

We are very pleased that you note we have made substantial progress in implementing some of the recommendations made in previous reports. You are assured that continued progress will be made in the areas of more sophisticated cost projections and formal fiscal planning.

There are several areas where we are not in compliance with your recommendations (Management of the State Bar Journal, Equity in Client Security Fund Charges). As you pointed out in your report, our decisions not to comply were based on business judgment or the opinion of our legal counsel.

As to the item you title full use of cash resources, the Board of Governors declined to implement your recommendation that current expenses be met through the use of cash and income anticipated in the following year. The Board believes that this type of deficit financing is not in the interest of prudent business management and is common knowledge that it has contributed greatly to the precarious financial position of several large metropolitan areas.

At the recent Board meeting of November 3, 1977, the Board of Governors resolved that any assessment to the Client Security Fund for 1978 was unnecessary and therefore will not be assessed.

We would particularly like to thank Mr. David Tacy of your staff for the fine spirit of cooperation and helpfulness he exhibited during the audit period.

Very truly yours,

John S. Malone
Secretary

JSM:ss

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